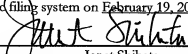


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Janet Shibata

PATENT

Customer No. 020991

Due Date: February 19, 2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Inventor: John P. Godwin

Serial No.: 10/797,438

Filed: March 10, 2004

Title: DEVICE AND METHOD TO IMPROVE
INTEGRATED PRESENTATION OF EXISTING
RADIO SERVICES AND ADVANCED
MULTIMEDIA SERVICES

Examiner: Angelica Perez

Group Art Unit: 2618

Appeal No.: _____

REPLY BRIEF OF APPELLANT

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 CFR §41.41(a)(1) and 41.43(b), Appellant hereby submits a Reply Brief.

It is believed that no fee is due for the filing of this Reply Brief. Should the Appellant be in error, please charge any additional fees or credit any overpayments to Deposit Account No. 50-0383 of The DIRECTV Group, Inc., the assignee of the present application.

I. STATUS OF CLAIMS

Claims 39-58 are pending in the application.

Claims 1-38 are canceled.

Claims 39-54, 57 and 58 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 6,160,545 to Eyer et al. (hereinafter, the Eyer reference) and U.S. Publication 2006/347216 to Marko et al. (hereinafter, the Marko reference) and these rejections are being appealed.

Claims 55 and 56 were rejected under 35 U.S.C. §103(a) as being obvious in view of Eyer, Marko and U.S. Patent 6,564,143 to Alewine et al. (hereinafter, the Alewine reference) and these rejections are being appealed.

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 39-54, 57 and 58 are patentable under 35 U.S.C. §103(a) over Marko in view of Eyer; and

Whether claims 55 and 56 are patentable under 35 U.S.C. §103(a) over Marko and Eyer in view of Alewine.

III. ARGUMENT

A. Claims 39-54, 57 and 58 are patentable under 35 U.S.C. §103(a) over Marko in view of Eyer

With Respect to Claim 39: Claim 39 recites:

A terrestrial repeater, comprising:

a repeater receiver, disposed in one of a plurality of local broadcast regions within a national broadcast region, the repeater receiver for receiving a signal transmitted by a satellite including national media programs intended for reception in the national broadcast region and regional media programs;

a processor for filtering the signal to pass only the regional media programs intended for reception in the one of the plurality of local broadcast regions;

a repeater transmitter, communicatively coupled to the repeater receiver, for transmitting the passed regional media programs intended for reception in the one of the plurality of local broadcast regions.

The Examiner's Answer argues

In the remarks, the applicant argues in substance:

(A) In page 10, "Marko teaches a repeater that transmits all programs, and a subscriber receiver that filters out the geographically inappropriate programs. This teaches away from the Applicant's invention."

In response to argument (A), the examiner would like to point out where at least in column 4, lines 13-32 and figure 1, Marko teaches where "terrestrial repeaters within each geographical areas 5-8 would transmit same transmitter identification number grouping data. this would allow for a nationwide weather channel that would be assigned the same station number, but carried several data streams with their associated geographical identifiers. When a user in geographic area 5 tuned to this channel, the user would only hear the weather information pertinent to geographic area 5 (the current location of the receiver)". Here, the terrestrial receivers receive information related to weather reports, where the channel label can be the same (e.g., channel 4,7, 9, 100); however, the repeaters would filter out and transmit to the users (receivers) only information pertinent to the current location associated with the particular geographic area. Thus, information that is selectively transmitted, is filtered out from the entire information received at the repeater.(emphasis in original)

However, the referenced portion of the Marko reference:

15 pertinent to its category or geographic region. For example, four geographic regions 5-8 (FIG. 1) are defined so that the terrestrial repeaters within each particular geographic areas 5-8 would transmit same transmitter identification number grouping data. This would allow for a nationwide weather channel that would be assigned the same station number but carried several weather data streams with their associated
 20 geographical identifiers. When a user in geographic area 5 tuned to this channel, the user would only hear the weather information pertinent to geographic area 5 (the current location of the receiver).

25 Similarly, if a subscriber is listening to sports programming on a national sports channel, and this channel is providing sports scores, the subscriber might only receive scores for nationally known teams and small local schools within the geographical region in which the receiver is currently located. The system would accomplish this by
 30 having the service broadcast nationally the scores for local teams all around the country, flagging each group with the category for their region.

does not disclose “repeaters that filter out and transmit to users (receivers) only information pertinent to the current location associated with the particular geographical area” as alleged. Instead, the foregoing discloses transmitting all the information to the receivers, and flagging the information so that each receiver can determine for itself whether the information is to be presented. (See the last sentence of the foregoing passage). This is also evident from FIG. 4:

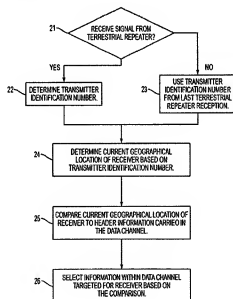


FIG. 4

Importantly, the operations depicted in blocks 24, 25, and 26 are performed in the receiver after the signal is received from the terrestrial repeater.

The Examiner's Answer also states:

(B) In page 11, "As described above Eyer does not teach a repeater, and Marko teaches a repeater that does not filter programs on any basis (filtering is done by the receiver, just as it is in Eyer). Accordingly, the Eyer/Marko combination does not teach the Applicant's invention, and in fact, teaches away from it."

In response to argument (B), the examiner would like to point out where in the Eyer's reference compromises a satellite link meaning, a communication subsystem that involves a link between a transmitter Earth station and a receiving Earth station via a communications satellite, thus a repeater, satellite. Eyer is not specific about a terrestrial repeater; however, Marko teaches such feature. Regarding the filtering an explanation to this limitation has been provided in point (A) above. (emphasis in original)

This represents the first time the Examiner has suggested that the *satellite* of Eyer represented the repeater.¹ In any case, there are a number of problems with the foregoing rationale:

First, claim 1 recites that the repeater receiver "receives a signal transmitted by the satellite." that is inconsistent with the notion of the repeater being the satellite itself;

Second, there is no evidence that the "satellite" in Eyer includes a repeater; and

Third, Eyer, like Marko still teaches filtering the received IPG at the receiver, not in the satellite.

With Regard to Claim 43: Claim 43 recites:

The terrestrial repeater of claim 42, wherein:

the signal comprises media programs intended for reception in a second local broadcast region; and

¹ As described in the Appellant's Brief, the Examiner has formerly argued (1) that item 130 (the receiver or IRD) was the repeater, and (2) that the transmitting antenna 110 was the repeater.

the repetition rate of the regional media programs is selected to utilize a repeater transmission capacity that would otherwise have been used to transmit the regional media programs intended for reception in the second local broadcast region.

The Examiner's Answer indicates

(C) Page 12 reads: "...the Applicant does not see how the features of claim 43 are disclosed in claim 17 of the Eyer reference."

Regarding argument (C), the examiner would like to point out where the disclosure is not clear or rather, it does not describe what the reception rate is, given a broad interpretation, one of ordinary skill in the art can broadly interpret it as a slow rate, low rate, high rate, fast rate, different rate from each other, having a specific numeric value rate; therefore, claim 17 reads on the claim because the reception rate of one region can differ from the rate of a different region due to factors such as hardware, software, environmental or priorities among region (see also column 9, lines 45-49 in the Eyer's reference). In addition, the examiner would like to point out where Marko teaches of at least lower data rates utilized in advertisement (column 4, lines 43-45), where advertisement is scheduled at different times in different regions, thus, different rates at different regions.

However, this ignores the language of claim 1, which states that the *repetition rate* (not the reception rate) *is selected* to utilize a repeater transmission capacity that would otherwise have been used (not merely the effect of hardware, software and environmental factors). Further, the specification provides ample explanation for the meaning of "repetition rate" at page 9, lines 3-18.

B. Claims 55 and 56 are patentable under 35 U.S.C. §103(a) over Marko and Eyer in view of Alewine

Claim 55 recites that the location module comprises a GPS to determine receiver position information. Given that the receiver of Eyer is a set top box that is installed in a family's household, it would appear that there is no motivation at all to install a GPS to determine location. The Office Action suggests the motivation is to determine where the receiver is located, but in the case of set top box like the one in Alewine, that information would be known to the broadcaster without the expense of a GPS.

Claim 56 recites that the location module of claim 54 (which determines the local broadcast region) comprises a RDBS compliant tuner for receiving information indicating the local broadcast information. According to the Final Office Action, this feature is disclosed in Alewine as follows:

Widely accepted technologies that may be implemented within an automobile include, cellular/global system for mobile communications (GSM), global positioning system (GPS), and radio data broadcast (RDB). These devices allow a driver to navigate, receive real-time traffic information and weather forecasts, access databases of personalized information, and place and receive telephone calls, as well as send and receive email and faxes from an automobile. Emerging technologies that are being integrated into computing platforms for automobiles include the universal serial bus (USB) and the digital video disk (DVD).

This simply discloses that technologies such as GSM, RDB, and GPS allow the user to navigate, receive real-time traffic information and weather forecasts, place and receive telephone calls, receive personal information, send and receive emails and faxes.

This does not disclose that any one of the indicated technologies are capable of providing all of the indicated functions. For example, it is well known that GPS does not allow a person to send e-mails or faxes. The Applicant believes the foregoing statement attributes "receive[ing] real-time traffic information and weather forecasts" to RDB, not navigation, placing telephone calls, receiving personal telephone calls, or sending emails and faxes.

The Examiner's Answer states:

Regarding point (D), the examiner would like to indicate that it is well known where GPS receivers are designed to provide location information. When a vehicle is located using GPS technology, the receiver inside/outside the vehicle is being located in relation to the vehicle. In addition, location of the area of broadcasting can be done by the satellites themselves, while location of specific receivers in a region can be done by GPS located at/near the receivers. The examiner has not intended to say that the GPS receivers are used in sending/receiving faxes, e-mails.

In addition, the examiner would like to provide extrinsic evidence to show that GPS technology is capable of locating stationary devices such as set-top-boxes as well as moving vehicles. For set-top-boxes see Denning et al. US 7143289 B2, column 10, lines 24-37.

As for the notion that GPS technology is capable of locating stationary devices and moving vehicles, the Examiner need not rely on the Denning reference ... the Applicant concedes this point.²

However, the Examiner must provide some rationale for modifying the primary references to include a GPS receiver or RDBS feature, and the Examiner has not done so. As described above, it would appear that the prior art teaches that the location of the receivers can be determined without such functionality, and since the addition of a GPS receiver or RDBS feature would increase the cost of the receiver, it would appear that the prior art actually teaches away from this modification.

² However, since Denning amounts to extrinsic evidence, the Examiner should place a copy of the Denning reference in the Examiner's Evidence Appendix.

IV. CONCLUSION

In light of the above arguments, Appellant respectfully submits that the cited references do not anticipate nor render obvious the claimed invention. More specifically, Appellant's claims recite novel physical features which patentably distinguish over any and all references under 35 U.S.C. §§ 102 and 103. As a result, a decision by the Board of Patent Appeals and Interferences reversing the Examiner and directing allowance of the pending claims in the subject application is respectfully solicited.

Respectfully submitted,

Date: February 19, 2009

By: 
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